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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/663,661	09/15/2000	Thomas S. Abbott		2183

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EXAMINER	
CAPRON, AARON J	
ART UNIT	PAPER NUMBER
3714	

DATE MAILED: 08/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/663,661	ABBOTT, THOMAS S.	
	Examiner	Art Unit	
	Aaron J. Capron	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 June 2002* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

MARK SAGER
PRIMARY EXAMINER

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

MARK SAGER
PRIMARY EXAMINER

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 2-9,11-25 and 27-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 2, 11 and 27, the phrase "at least one-tenth" renders the claims indefinite because the claims include elements not actually disclosed (those encompassed by "at least"), thereby rendering the scope of the claims unascertainable. The use of the term "at least one-tenth" means that the time interval could go from 1/10 of a second to infinity, therefore causing the claim to be indefinite. See MPEP § 2173.05(d). Claims 3-9, 12-25 and 28-35 are rejected for their dependency on claims 2, 11 and 27.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C.

122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-2, 10-11 and 26-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Nolte et al. (U.S. Patent No. 6,165,070; hereafter "Nolte").

Nolte discloses an electronic video based apparatus for simulating a rotating reel game comprising means for displaying to a player on a video screen a plurality of reels (Figure 4), means to make the means for displaying the plurality of reels to appear to rotate the reels by successively projecting on the video screen images of a reel at differing locations on the video screen (Figure 4), means for displaying on the reels a plurality of predetermined fixed symbols (Figure 3A), for each of the plurality of reels, means to stop the apparent rotation of the reel, the means to stop controlled by the player (Stop button 17 at Figure 4), means for determining whether player has used the means to stop so that at least one of the pre-determined fixed symbols is stopped within a predetermined location on the video screen (Column 7, line 61 to column 8, lie 11), and means for determining results of the play of game based on whether the player used the means to stop whereby at least on of the predetermined fixed symbols is stopped within one of said predetermined locations (Figure 8B).

Referring to claim 11, Nolte discloses an electronic video based apparatus wherein the means to stop allows a player a variable amount of time to use the means to stop at least one of the predetermined fixed symbols within the predetermined location on the video screen (Figure 3A; column 9, lines 29-34). The variable time can be easily adjusted through the software to be any time at or over one-tenth of a second.

Claims 1-2 correspond in scope to an game apparatus set forth for use of the video based apparatus listed in claims 10-11 and are encompassed by use as set forth in the rejection above.

Claims 26-27 correspond in scope to a method set forth for use of the video based apparatus listed in claims 10-11 and are encompassed by use as set forth in the rejection above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 3-9, 12-25 and 28-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nolte in view of Sakamoto et al. (U.S. Patent No. 6,306,034; hereafter "Sakamoto").

Referring to claim 12, Nolte discloses an electronic video based apparatus that discloses using bonus symbols to reach a bonus game, but does not disclose updating the bonus symbol randomly to increase the chances of a payout. However, Sakamoto discloses a slot machine with stop buttons that uses a prize mode determining means for determining a prize mode of a game by a random number lottery (Column 1, line 65 to column 2, line 1; and column 3, line 19-40). One would be motivated to combine the two references since both disclose slot machines with the ability to reach a bonus round. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a random prize mode determining means into the electronic video base apparatus because a player would have to concentrate more on the reels and therefore, the game would generate more interest among players.

Referring to claim 13, Nolte discloses an electronic video base apparatus wherein each of the plurality of reels has the same total number of predetermined fixed symbols (Column 6, lines 46-63).

Referring to claim 14, Nolte discloses an electronic video apparatus wherein the plurality of predetermined fixed symbols is a fixed amount and a fixed multiple number of the fixed amount of predetermined fixed symbols is randomly distributed on each of the reels, whereby each reel will have for each individual symbol that fixed multiple number of the individual symbols displayed on the reel whereby no symbol appears more or less frequently than any other symbol on said reel (Master Iconic Database Table, Partial Randomized Iconic Database Table (A and B) and Proposal 1).

Referring to claim 15, Nolte discloses that the there is no timeout for the rotating cylinders if the player does not depress the stop button. However, Nolte also discloses that prior art exists that contains a timeout that forces the player to select the stop button (Column 11, lines 1-10)

Referring to claim 16, Nolte discloses an electronic video base apparatus wherein the fixed symbols are constrained to stop outside of the predetermined location at expiration of the fixed amount of time unless player has used the means to stop within the fixed amount of time determined by the timer to stop the reel (Column 9, lines 29-34).

Referring to claim 17, Nolte discloses an electronic video base apparatus that comprises means for shuffling the random distribution of the symbols on each of the reels, the means for shuffling constrained to operate only between games and not during play of a game (Column 1, lines 54-58 and Column 6, lines 41-45).

Referring to claim 18, Nolte discloses an electronic video base apparatus wherein the means for shuffling is constrained so that no more than two of any same symbol will be in succession on a reel but where the symbols are otherwise randomly distributed on each of the reels (Master Iconic Database Table, Partial Randomized Iconic Database Table (A and B) and Proposal 1).

Referring to claim 19, Nolte discloses an electronic video base apparatus wherein raising levels (means for shuffling, time delay updates) is constrained to operate after a predetermined number of time (Column 14, lines 38-45 and the Programmer's Report Table), but not by the number of games. It is well known in the art to use to increase the difficulty of the games by the number of games played. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the number of games played into the method for level progression because some players may play the game faster/slower than others and therefore be affected by the time constraint.

Referring to claim 20, Nolte discloses an electronic video base apparatus that includes that the reel does not stop until the stop button is depressed (Column 11, lines 1-4) and an administrator having the ability to update the sequence (Column 19, lines 53-56). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the ability to update the sequence into the spinning reel because a player could get acquainted with the sequence of the icons very early and the challenge of the game would not be there.

Referring to claim 21, Nolte discloses an electronic video base apparatus wherein if a player is successful in using the means to stop a predetermined number of the fixed symbols

matching the bonus symbol in the predetermined location, then player is awarded by a special bonus table (Column 12, lines 35-44).

Referring to claim 22, Nolte discloses an electronic video base apparatus further comprising information relating to a player and the game (Column 19, Report Table), but fails to disclose a game counter to record how many games have been played. It is well known in the art to use counters to keep track of the number of games. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include games played into the Report Table because software could be easily manipulated to include the games played to further track the popularity of a game.

Referring to claim 23, Nolte discloses an electronic video base apparatus where a player can access a bonus round by timing the icons correctly, whereby the bonus display screen comes up and a player can win more credits (Column 12, lines 35-44).

Referring to claim 24, Nolte suggests an electronic video base apparatus wherein the second means to stop allows a player a portion of time to signal a stop of the flashing bonus symbols (Column 12, lines 35-44) because Nolte refers that the player needs to use his or her skill in order to win the high value in the bonus round.

Referring to claim 25, Nolte discloses an electronic video based apparatus wherein the means to stop allows a player a variable amount of time to use the means to stop at least one of the predetermined fixed symbols within the predetermined location on the video screen (Figure 3A; column 9, lines 29-34). The variable time can be easily adjusted through the software to be any time at or over one-tenth of a second.

Claims 3-9 correspond in scope to an game apparatus set forth for use of the video based apparatus listed in claims 12-25 and are encompassed by use as set forth in the rejection above.

Claims 28-35 correspond in scope to a method set forth for use of the video based apparatus listed in claims 12-25 and are encompassed by use as set forth in the rejection above.

Response to Arguments

Applicant's arguments filed June 12, 2002, have been fully considered but they are not persuasive.

With respect to claims 1, 10 and 26, Applicant argues that the Applicant's invention requires two full symbols in a reel and that Nolte requires that less than the two symbols be displayed. As claimed, the Applicant states "means for displaying a portion of said reels to a player so that for each of said reels at least two of said symbols on each of the reels may be visually perceived by said player." However, as claimed by the Applicant, the current invention does not require that at least two **full** symbols are needed. Nolte discloses the plurality of symbols, as shown in Figures 3A, and encompasses the features of the claimed invention. Therefore, Nolte discloses the claimed features and the Applicant's argument is found to be not persuasive. Also, no temporal limitation for simultaneous display of at least two symbols.

With respect to claims 2, 11 and 27, Applicant argues that the teaching of the timing of the current invention, there would be no reason to adjust the software to 1/10 of a second to allow the minimum reaction time. As claimed, the Applicant states "...said player has a time interval at least one-tenth of a second to use the player controlled stop to stop the rotation...". However, as claimed by the Applicant, the timing interval can be equal to or greater than 1/10 of a second. Nolte discloses a time interval for issuing the stop command to land the reel on the correct symbol to be between the times of t1-t3 (Figure 5). Nolte states that over 4.5 seconds 27 symbols are shown (12:56-61), where each symbol gets .1667-.2 seconds to be selected and

viewed, considering that each symbol has the same time interval to be selected. Therefore, Nolte discloses the claimed features and the Applicant's argument is found to be not persuasive.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Takemoto et al (U.S. Patent No. 6,004,208) discloses a slot machine that uses stop symbols to stop the reels (Abstract) and shows at least two full symbols on a slot reel (Figure 18).

.**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron J. Capron whose telephone number is (703) 305-3520. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-9302 for regular communications and (703) 746-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

AJC
July 29, 2002

MARK SAGER
PRIMARY EXAMINER